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**FISCAL IMPACT STATEMENT**

**LS 6529**

**BILL NUMBER:** HB 1835

**NOTE PREPARED:** May 2, 2007

**BILL AMENDED:** Apr 29, 2007

**SUBJECT:** Race Tracks.

**FIRST AUTHOR:** Rep. Van Haaften

**FIRST SPONSOR:** Sen. Jackman

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** *Racetrack Slot Machine Facilities:* The bill authorizes slot machines at racetracks. It provides that a licensee may not install more than 2,000 slot machines without the approval of the Indiana Gaming Commission. It also limits a horse racetrack permit holder who offers slot machines to the number of satellite facility licenses issued to the permit holder before January 1, 2007. The bill specifies certain powers and duties of the Indiana Gaming Commission for the purpose of administering, regulating, and enforcing the system of slot machine gambling at racetracks. It also provides that a license is null and void if the licensee fails to obtain and maintain a horse racing permit and satisfy the racing requirements of the horse racing law.

*Initial Slot Machine Licensing Fee:* The bill requires from each licensee an initial licensing fee of \$250 M payable in two annual installments. It also requires the Indiana Gaming Commission to deposit the initial licensing fees into the Property Tax Reduction Trust Fund.

*Slot Machine Wagering Tax:* The bill imposes a graduated Slot Machine Wagering Tax equal to: (1) 25% of the first \$100 M of adjusted gross receipts received during the state fiscal year; (2) 30% of the adjusted gross receipts in excess of \$100 M but not exceeding \$200 M received during the state fiscal year; and (3) 35% of the adjusted gross receipts in excess of \$200 M received during the state fiscal year. It also provides that all Slot Machine Wagering Taxes are deposited into the Property Tax Reduction Trust Fund.

*County Slot Machine Wagering Fee:* The bill imposes a 3% County Slot Machine Wagering Fee on a licensee that offers slot machine wagering. It provides that a licensee is not required to pay more than \$8 M of fees in any state fiscal year. It also provides that the fees are distributed to the county auditor of the county in which the licensee's racetrack is located for distribution to the county and cities and towns in the county.

*Gaming Integrity Fee:* The bill requires a licensee that offers slot machine wagering to annually pay to the Indiana Gaming Commission a Gaming Integrity Fee of \$250,000.

*15% AGR Set Aside for Horse Racing Purposes:* The bill requires a licensee in each state fiscal year to devote to horse racing purses and certain other purposes an amount equal to the lesser of 15% of the adjusted gross receipts from slot machine wagering or \$85 M plus inflation. The bill specifies the distribution of this money. It provides that the first \$250,000 (from each racetrack) of the money is to be deposited in the Gaming Integrity Fund. It provides that money distributed to a horsemen's association may not be expended unless the expenditure is for the purposes specified in statute and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana. It also requires a horsemen's association to: (1) annually file a report with the Indiana Horse Racing Commission concerning the use of the money; and (2) register with the Indiana Horse Racing Commission.

*Riverboat Admission Tax Distribution to Horse Racing:* The bill specifies that beginning with the first year in which slot machine wagering is allowed, the Riverboat Admissions Tax revenue otherwise distributed to the Indiana Horse Racing Commission is reduced each state fiscal year by the money that is dedicated to purses, breed development, and horsemen's associations.

*Problem Gambling Fee:* The bill requires a licensee that offers slot machine wagering at racetracks to annually pay to the Division of Mental Health and Addiction a Problem Gambling Fee equal to \$500,000 for each racetrack at which the licensee offers slot machine wagering.

*French Lick Casino Subsidy:* The bill provides that in state fiscal years beginning after June 30, 2007, and ending before July 1, 2012, a licensee that offers slot machine wagering shall pay to the Indiana Gaming Commission a supplemental fee equal to 1% of the adjusted gross receipts received from slot machine wagering. It provides that the supplemental fees are distributed to each licensed owner or operating agent that commences gaming operations with respect to an initial owner's license or the initial term of an operating agent contract after June 30, 2006.

*Local Development Agreements:* The bill prohibits local development agreements between the permit holders who operate slot machine facilities and political subdivisions.

*Live Racing Days:* The bill provides that the Indiana Horse Racing Commission shall require at least 140 but not more than 165 live racing days at each racetrack. It provides that a permit holder may not conduct more than 14 races on a racing day.

*Alcohol Beverage Licenses for Slot Machine Facilities:* The bill allows a slot machine facility to be licensed under the alcoholic beverage laws under the same conditions as a riverboat.

*Minority and Women's Business Enterprise Provisions:* The bill provides that the Indiana Gaming Commission shall establish goals for permit holders concerning contracts for goods and services with minority business enterprises and women's business enterprises. It also requires these goals to be equal to goals set by the Commission for riverboat gaming licensees.

*Riverboat Casino Locations:* The bill specifies the five counties in which a riverboat is currently operating as the Ohio River counties for which a riverboat owner's license may be issued. It provides that a person holding a riverboat owner's license may not move the person's riverboat from the county in which the riverboat was docked on January 1, 2007.

*Riverboat Admissions Tax:* The bill provides that the Indiana Gaming Commission may by rule determine the point at which a person is considered to be admitted to a gambling excursion or admitted to a riverboat, for purposes of collecting the Riverboat Admissions Tax.

*Riverboat Wagering Tax:* The bill increases the Riverboat Wagering Tax rate on adjusted gross receipts exceeding \$600,000,000 to 40%.

*Riverboat Property Tax Assessments:* The bill provides alternative property tax assessment methodologies for riverboats.

**Effective Date:** Upon Passage; March 1, 2006 (retroactive); July 1, 2007.

**Summary of Net State Impact:** The potential fiscal impact on the Property Tax Reduction Trust Fund (established by the bill), the state General Fund, and the Property Tax Replacement Fund (PTRF) is outlined in the table below.

State Fund/Revenue Source (in millions)	FY 2008	FY 2009	FY 2010
<b>Property Tax Reduction Fund</b>			
Initial Licensing Fees	300.0	200.0	0
Slot Machine Wagering Tax	0	63.3	87.5
<b>Subtotal</b>	<b>300.0</b>	<b>263.3</b>	<b>87.5</b>
<b>General Fund</b>			
Riverboat Admission Tax Collections*	0	18.0	18.1
<b>Property Tax Replacement Fund</b>			
Riverboat Admission Tax Supplemental Funding**	0	9.2	9.1
<b>Total</b>	<b>300.0</b>	<b>290.5</b>	<b>114.7</b>
*Riverboat Admission Tax collections currently distributed to the IHRC for various horse racing purposes. **Amounts annually transferred from the PTRF to the Indiana Horse Racing Commission (IHRC) for horse racing purposes to replace Riverboat Admission Tax shortages.			

It is important to note that the totals reported in the above table are not adjusted to account for the potential displacement of Riverboat Admission Tax and Wagering Tax revenue by slot machine wagering at Hoosier Park and Indiana Downs. These potential competitive impacts on the fiscal outcomes are indeterminable, but could be significant. As an example, if 1% of the estimated AGR generated by slot machine operations at the horse racetracks is displaced from riverboat casinos, revenue to the Property Tax Replacement Fund from riverboat taxes could potentially be reduced by about \$1.1 M annually.

The bill also provides for several special purpose fees and payments to be made annually by each horse racetrack owner that operates slot machines. These fees and payments include: (1) a set aside of 15% of slot machine adjusted gross receipts for the Gaming Integrity Fund, purses, breed development funds, and horsemen's associations; (2) a 1% Supplemental Wagering Fee to subsidize the French Lick Casino through

FY 2012; (3) a Gaming Integrity Fee to be deposited in the Gaming Integrity Fund (established by the bill); and (4) a Problem Gambling Fee to be distributed to the Division of Mental Health and Addiction. The table below summarizes the fiscal impact of these fees and payments.

Revenue Source (in millions)	FY 2008	FY 2009	FY 2010
15% AGR Set Aside for Horse Racing Purposes*	0	36.6	48.8
French Lick Casino Subsidy	0	2.4	3.3
Gaming Integrity Fee	0	0.5	0.5
Problem Gambling Fee	0	1.0	1.0
<b>Total</b>	<b>0</b>	<b>40.5</b>	<b>53.6</b>
*The first \$250,000 annually in set aside money from each racetrack owner is to be distributed to the Gaming Integrity Fund.			

**Explanation of State Expenditures:** *Property Tax Reduction Trust Fund:* The bill establishes the Property Tax Reduction Trust Fund to be administered by the Treasurer of State. Money in the Fund is to be used for providing property tax relief in any manner prescribed by the General Assembly. The bill requires revenue from initial Slot Machine Licensing Fees, the Slot Machine Wagering Tax, and excess money from the racetrack owners' 15% set aside of slot machine adjusted gross receipts (see *Explanation of State Revenues*) to be distributed to the Fund. The Fund is nonreverting, and money in the Fund may not be transferred, assigned, or otherwise removed by the State Board of Finance, the State Budget Agency, or any other state agency.

*Gaming Integrity Fund:* The bill establishes the Gaming Integrity Fund to be administered by the Indiana Gaming Commission (IGC). The bill requires revenue from the Gaming Integrity Fee and the racetrack owners' 15% set aside of slot machine adjusted gross receipts (see *Explanation of State Revenues*) to be distributed to the Fund. The Fund is nonreverting. Money in the Fund may be used by the IGC to: (1) pay the cost of analyzing equine specimens; (2) pay dues to the Drug Testing Standards and Practices Committee of the Association of Racing Commissioners International; and (3) provide grants for research for the advancement of equine drug testing.

*Indiana Gaming Commission (IGC):* The bill requires the IGC to regulate and administer slot machine operations at Hoosier Park and Indiana Downs. This will include: (1) investigation and licensing of the slot machine facility owners, slot machine suppliers, and employees of the slot machine facilities and suppliers; and (2) employing gaming agents to perform investigatory and regulatory tasks. The bill provides that licensees pay license fees and pay the cost of any investigation by the IGC relating to the licensee, but the bill requires this money to be deposited in either the Property Tax Reduction Trust Fund or the state General Fund. The bill allows the IGC to utilize employees who are employed by the IGC for the administration of the charity gaming or riverboat gaming laws to administer and regulate slot machine wagering at racetracks. The bill also requires the owners of the horse racetracks to reimburse the IGC for the cost of training the gaming agents, the salaries and other expenses of staff supporting the gaming agents, and the salaries and other expenses of the gaming agents.

The bill also establishes minority and women's business purchasing goals for pari-mutuel permit holders who operate slot machines. It places responsibility for enforcement of these requirements under the IGC.

Currently, the IGC administers similar requirements for riverboat casinos.

*Penalties:* The bill establishes a Class D felony for various types of violations at slot machine facilities. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Racetrack Slot Machine Tax and Fee Provisions:* The bill authorizes the operation of slot machines at Hoosier Park and Indiana Downs. The bill limits the number of slot machines at each horse race track to 2,000 without the approval of the IGC.

Slot Machine Licensing Fee: The bill imposes an initial licensing fee of \$250 M for each horse racetrack owner to operate slot machines. The revenue from this fee is to be distributed to the Property Tax Reduction Trust Fund. The fee is to be paid in two installments, with \$150 M due from each racetrack owner by November 1, 2007, and \$100 M due from each racetrack owner by November 1, 2008. The initial license is effective for five years. The annual renewal license fee is \$100 per slot machine operated by the licensee. Revenue from the annual renewal license fee is to be deposited in the Property Tax Reduction Trust Fund. Assuming a total of 4,000 slot machines, the annual renewal license fee would generate \$400,000 annually.

Slot Machine Wagering Tax: The bill imposes a state Slot Machine Wagering Tax on annual adjusted gross receipts (total wagers minus winnings paid out) generated by slot machines at Hoosier Park and Indiana Downs. Revenue from the Wagering Tax is to be distributed to the Property Tax Reduction Trust Fund. The Wagering Tax is equal to: (1) 25% on the first \$100 M of annual AGR generated by a licensee's slot machines; (2) 30% on annual AGR exceeding \$100 M and up to \$200 M generated by a licensee's slot machines; and (3) 35% on annual AGR exceeding \$200 M generated by a licensee's slot machines. It is estimated that the tax could potentially generate about \$63.3 M in FY 2009 and about \$87.5 M annually thereafter.

It is estimated that annual AGR from slot machines at Hoosier Park and Indiana Downs could potentially total approximately \$325 M. The potential annual growth in this revenue is indeterminable. Assuming a 12-15 month start-up period, it is estimated that no revenue from this tax will be generated in FY 2008; with about 9-12 months of revenue potentially being generated in FY 2009. Under the bill, once the IGC approves a slot machine licensee's plans for a permanent facility, it must allow the licensee to operate slot machines in a temporary facility for up to 24 months. The bill allows the IGC to approve a longer period for temporary facility operations. As a result, the start-up period could be reduced to the extent that operations in a temporary facility are established.

15% AGR Set Aside for Horse Racing Purposes: The bill requires each racetrack owner operating slot machines to set aside 15% of the AGR generated by the owner's slot machines for purses, horsemen's associations, and breed development. The set aside is to be distributed to the Indiana Horse Racing Commission on a monthly basis. In FY 2009, the bill caps the set aside at \$85 M, and in FY 2010 and after, the bill caps the set aside at a level equal to the prior fiscal year's set aside amount increased by the percentage increase in the Consumer Price Index during the prior year. If the set aside amount exceeds the cap in a state fiscal year, the excess is to be deposited in the Property Tax Reduction Trust Fund. It is

estimated that the set aside could potentially total about \$36.6 M in FY 2009, and \$48.8 M annually thereafter.

The bill requires the first \$250,000 annually from each racetrack owner to be distributed to the Gaming Integrity Fund established by the bill. The bill authorizes the Indiana Horse Racing Commission to impose a civil penalty of up to \$1 M against the owner of a racetrack if it finds that the owner has not complied with this funding requirement.

French Lick Casino Subsidy: The bill imposes a Supplemental Wagering Fee equal to 1% of AGR generated by a licensee's slot machines from July 1, 2007, to June 30, 2012. The revenue from the Fee is to be deposited in a separate account in the state General Fund. Under the bill, the Supplemental Wagering Fee revenue will be distributed only to the French Lick Casino. It is estimated that the Supplemental Wagering Fee could total about \$2.4 M in FY 2009, and \$3.3 M annually from FY 2010 to FY 2012.

Gaming Integrity Fee: The bill provides for an annual Gaming Integrity Fee of \$250,000 to be paid by each horse racetrack owner operating slot machines to the Gaming Integrity Fund (established by the bill). (Note: This fee is in addition to the amount from the 15% AGR Set Aside paid into the Gaming Integrity Fund (see above under 15% AGR Set Aside for Horse Racing Purposes). The first \$250,000 in set aside money paid each year by a racetrack owner is to be distributed to the Gaming Integrity Fund.)

Problem Gaming Fee: The bill requires each racetrack owner operating slot machines to annually pay a Problem Gambling Fee of \$500,000 to the Division of Mental Health and Addiction. The bill provides for the Division to use the fee revenue for the prevention and treatment of compulsive gambling relating to slot machine wagering at horse racetracks and gambling at riverboat casinos. The bill specifies that the fee revenue is in addition to any Riverboat Admission Tax revenue allocated to the Division for the prevention and treatment of compulsive gambling. In FY 2006, the Division of Mental Health received \$4.2 M from the Riverboat Admission Tax.

Existing Riverboat Admission Tax to Horse Racing: The bill replaces the Riverboat Admission Tax subsidy to horse racing with amounts distributed to horse racing from the 15% AGR Set Aside (see above under 15% AGR Set Aside for Horse Racing Purposes). The 15% AGR Set Aside is estimated to fully replace the Riverboat Admission Tax subsidy to horse racing beginning in FY 2009. This subsidy consists of: (1) Riverboat Admission Tax collections and (2) the annual supplemental payment from PTRF for replacement of Admission Tax shortages. The bill redirects actual Riverboat Admission Tax collections otherwise earmarked for the horse racing subsidy to the state General Fund, and discontinues the supplemental Admission Tax payments from the PTRF. Under current statute, \$0.65 per \$3.00 Admission Tax paid is distributed to the IHRC for purses, horsemen's associations, breed development, and the race track subsidy. This annual distribution is guaranteed at \$27.2 M, with the supplemental payment from PTRF making up the difference between the guarantee amount and actual Admission Tax collections. The supplemental payment is made in the fiscal year following the fiscal year of the shortage. In FY 2006 approximately \$17.6 M in Admission Tax collections was distributed to the IHRC. Thus, the supplemental payment from PTRF for the FY 2006 shortage totaled approximately \$9.6 M. The collections total is expected to grow by about 1% to 1.5% per year.

Existing Parimutuel Admission Tax Revenue: Revenue from the existing \$0.20 Pari-mutuel Admissions Tax could potentially increase if slot machine operations serve to increase paid attendance. Currently, admission is charged at Hoosier Park. Under current statute, 50% of the tax is distributed to the state General Fund. The potential impact is indeterminable.

Other License Fees: The bill provides for a slot machine supplier's license and a slot machine occupational license.

(1) The annual fee for a supplier's license would be \$5,000. The bill requires a person to obtain a supplier's license to furnish slot machines to the horse race tracks.

(2) The bill requires the IGC to determine the occupations relating to slot machine operations at racetracks that require licensing. The bill also requires the IGC to set the occupational license fee.

The bill requires slot machine supplier licensees to reimburse the IGC for the cost of any investigation of the licensee. The bill also requires the racetrack owners and slot machine suppliers to pay the occupational license fee and investigation costs for an employee requiring an occupational license. The bill distributes the license fee revenue and investigation cost reimbursement money to the state General Fund.

Fiscal Impact Details: The fiscal impact is based on estimates of potential patrons at slot machine facilities located at Hoosier Park and Indiana Downs. The patron estimates are based on adult population totals from counties not exceeding 120 miles from the two locations. Counties in this group that are closer to casinos in Indiana, Illinois, or Michigan are excluded. Participation and annual visitation rates of casino patrons are based on recent industry survey information. The estimate also assumes that the AGR per patron visit is between \$76 and \$77. It is important to note that the fiscal estimates are not adjusted to account for the potential displacement of Riverboat Admission Tax and Wagering Tax revenue by slot machine wagering at Hoosier Park and Indiana Downs. These potential competitive impacts on the fiscal outcomes are indeterminable, but could be significant. As an example, if 1% of the estimated AGR generated by slot machine operations at the horse racetracks is displaced from riverboat casinos, revenue to the PTRF from riverboat taxes could potentially be reduced by about \$1.1 M annually.

*Riverboat Wagering Tax:* The bill provides for a 40% Wagering Tax rate on annual riverboat AGR exceeding \$600 M. Currently, no riverboat casino generates over \$500 M in AGR annually, and only two riverboats generate over \$400 M in AGR annually. These two riverboats are Argosy Casino, generating about \$460.2 M in AGR during FY 2006, and Horseshoe Casino, generating about \$419.7 M in AGR during FY 2006. It is unknown when or if a riverboat casino will top \$600 M in annual AGR.

*Riverboat Property Tax Assessments:* The DLGF would be permitted to adopt rules governing the calculation of an assessment of riverboats using the capitalization of income approach.

*Criminal Penalty Provisions:* The bill makes it a Class A misdemeanor for a person to knowingly or intentionally aid, induce, or cause a person less than 21 years of age and who is not an employee of a slot machine facility to enter or attempt to enter the facility. It also makes it a Class A misdemeanor for a person who is less than 21 years of age and who is not an employee of a slot machine facility to knowingly or intentionally enter or attempt to enter the facility. The bill also establishes a Class D felony for various types of cheating at slot facilities.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is

filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

*Civil Penalty Provisions:* The bill also authorizes the IGC to impose civil penalties on slot machine facility licensees for violations by the licensee or licensee's employees of the state law relating to slot machine operations at horse racetracks. The civil penalty may not exceed the greater of \$10,000 or the licensee's daily AGR for the day of the violation. The bill also authorizes the IGC to impose a civil penalty of not more than \$25,000 on a person holding a supplier's license for violations of the state law relating to slot machine operations at horse racetracks.

**Explanation of Local Expenditures:** *Criminal Penalty Provisions:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *County Slot Machine Wagering Fee:* The bill imposes a County Slot Machine Wagering Fee equal to 3% of the AGR generated by a licensee's slot machines. However, the bill limits the Wagering Fee to \$8 M annually for each licensee. The bill requires a licensee to pay the fee to the IGC, with revenue from the fee to be deposited in a separate account of the state General Fund. The bill requires the fee revenue collected at Hoosier Park to be distributed to Madison County, and the fee revenue collected at Indiana Downs to be distributed to Shelby County. Within each county the revenue is to be distributed on a per capita basis to the county, and cities and towns within the county. In state FY 2009, the distribution could potentially total about \$4.4 M for Madison County and \$2.9 M for Shelby County. The distribution could potentially total about \$5.9 M for Madison County and \$3.9 M for Shelby County annually beginning in FY 2010.

*Riverboat Property Tax Assessments:* Under current law, gaming riverboats are assessed as real property. For the 2002 Pay 2003 tax year, the boats were assessed according to schedules published in the real property assessment guideline incorporated into the DLGF's real property assessment rule. Beginning with taxes payable in 2007, the assessment is covered by the DLGF's annual real property adjustment (trending) rule. Under the trending rule, assessors may use comparative sales to value the property.

This bill would require assessment of gaming riverboats at the lesser of three methods: (1) Reproduction cost less depreciation; (2) Comparable sales; or (3) Capitalization of income. The bill specifies that the sales data used in the sales approach must exclude the value attributable to licenses, fees, and personal property. The assessor would not be required to appraise the property under all three methods if the assessor and taxpayer can agree on one approach.

The impact on the assessment of riverboats depends on the local assessor's approach to assessment under the current assessment rule. An assessment under this provision would most likely result in a lower assessment than an assessment based on pure comparative sales.

*Criminal Penalty Provisions:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court



fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Indiana Gaming Commission; Indiana Horse Racing Commission; Department of State Revenue; Department of Correction; Division of Mental Health and Addiction.

**Local Agencies Affected:** Local units in Shelby County and Madison County; Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; Department of Correction; Indiana Gaming Commission, *FY 2006 Annual Report*; Harrah's Entertainment, Inc. *Harrah's Survey: Profile of the American Casino Gambler, 2002, 2003, 2004, & 2006*.

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